

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH LENNEL CHATTMAN,)	No. C 10-5912 JSW (PR)
)	
Petitioner,)	ORDER OF DISMISSAL
)	
vs.)	
)	
R. GROUNDS, Warden,)	
)	
Respondent.)	
)	

INTRODUCTION

Petitioner, a prisoner of the State of California, currently incarcerated at the California Training Facility, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the decision of the Board of Parole Hearings to deny him parole in 2009. He has paid the filing fee. This order dismisses the petition for failing to state a cognizable claim for federal habeas relief.

DISCUSSION

I. Standard of Review

This court may entertain a petition for a writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).

It shall “award the writ or issue an order directing the respondent to show cause

1 why the writ should not be granted, unless it appears from the application that the
2 applicant or person detained is not entitled thereto.” *Id.* § 2243.

3 **II. Legal Claims**

4 Petitioner claims that the denial of parole was not supported by at least “some
5 evidence” of his current dangerousness.

6 For purposes of federal habeas review, a California prisoner is entitled to only
7 “minimal” procedural protections in connection with a parole suitability determination.
8 *Swarthout v Cooke*, No 10-333, slip op. at 4-5 (U.S. Jan. 24, 2011). The procedural
9 protections to which the prisoner is entitled under the Due Process Clause of the
10 Fourteenth Amendment to the U.S. Constitution are limited to an opportunity to be heard
11 and a statement of the reasons why parole was denied. *Id.* at 4-5. The Constitution does
12 not require more. *Id.* at 5. The Court explained that no Supreme Court case “supports
13 converting California’s ‘some evidence’ rule into a substantive federal requirement.” *Id.*
14 It is simply irrelevant in federal habeas review “whether California’s ‘some evidence’ rule
15 of judicial review (a procedure beyond what the Constitution demands) was correctly
16 applied.” *Id.* at 6.

17 In light of the Supreme Court’s determination that due process does not require
18 that there be any amount of evidence to support the parole denial, Petitioner’s “some
19 evidence” claims fail to state a cognizable claim for relief.

20 **CONCLUSION**

21 For the foregoing reasons, the petition for a writ of habeas corpus is DISMISSED.

22 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district
23 court to rule on whether a Petitioner is entitled to a certificate of appealability in the same
24 order in which the petition is decided. Petitioner has failed to make a substantial showing
25 that his claims amounted to a denial of his constitutional rights or demonstrate that a
26 reasonable jurist would find this Court’s denial of his claim debatable or wrong. *Slack v.*


27 //

McDaniel, 529 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted in this case

The Clerk shall enter judgment and close the file.

IT IS SO ORDERED.

DATED: February 15, 2011


JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KENNETH LENNEL CHATTMAN,

Case Number: CV10-05912 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

RANDY GROUNDS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 15, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kenneth L. Chattman
C05576
P.O. Box 689
Soledad, CA 93960

Dated: February 15, 2011



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk